

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

06-CR-6077L

v.

HOWARD DENNIS KELLY,

Defendant.

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Defendant, Howard Dennis Kelly (“Kelly”), has filed two motions, *pro se*, which he styles “Post Trial Pro Se Motion No. Four” (Dkt. #97) and “Post Trial Pro Se Motion # Five” (Dkt. #98). Kelly has filed these motions, although he has previously been advised, on several occasions, that he should not file such motions since he is, and has been, represented by counsel. I have also advised Kelly that I have no obligation to decide such motions because of the fact he is represented by an attorney.

I have, nevertheless, considered Kelly’s filings, and I will consider and dispose of each motion. Both motions are similar in that they mostly contain rantings of Kelly. As to the substantive matters, Post Trial Motion No. Four objects to the withdrawal of appointed counsel, seeks a mistrial and moves the matter for sentencing. I deny the motion for a mistrial, since there is no basis whatsoever to grant one. The other requests are denied as moot. Kelly’s appointed lawyer never

moved to withdraw but simply raised issues of potential conflict which this Court has already resolved at a proceeding in court where Kelly specifically requested appointed counsel to remain on the case. As to sentencing, any delays in sentencing are not covered by the Speedy Trial Act but, in any event, sentencing is scheduled to appear within the week.

Concerning Post Trial Pro Se Motion # Five (Dkt. #98), the only apparent purpose is to object to certain delays and the modest adjournment of sentencing, which occurred primarily to assist appointed counsel in filing matters pertaining to sentence. To the extent this motion seeks relief, it is denied.

IT IS SO ORDERED.



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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
April 29, 2008.